



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,648	12/12/2003	Willem Polak	1029.0001-00000	1631
68540 7590 09/16/2010 O'BRIEN JONES, PLLC 1951 Kidwell Drive Suite 550 B Tysons Corner, VA 22182				
EXAMINER THOMAS, ERIC M				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 09/16/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@OBRIENJONES.COM
susanne.jones@obrienjones.com
michelle.obrien@obrienjones.com

Office Action Summary

Application No.

10/733,648

Applicant(s)

POLAK ET AL.

Examiner

Eric M. Thomas

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 63-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/5/10 has been entered.

Response to Amendment

This is in response to the amendments filed on 5/5/10; claims 63 and 72 have been amended. Claims 63 – 82 are pending in the current application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 63 – 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S. 6,203,011) in view of Pollock et al. (U.S. 6,305,687).

Regarding claims 63, 64, 72, and 73, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein one embodiment of the lottery game is that the lottery ticket may be a prepaid game card (col. 9, lines 15 - 16). Nulph further discloses that the game ticket includes a plurality of play spots wherein each play spot

has a value selected from a set of values wherein the values are distributed randomly on the tickets wherein the play spots may be lottery play numbers that is generated by the controlling authority (abstract and col. 4, lines 45 - 47). This is viewed by the examiner as a prepaid wagering card that includes one or more wagering entries, wherein each entry comprises a set of randomly generated numbers corresponding to a format of a predetermined lottery and configured to identify whether the wagering card includes a winning entry. Nulph further discloses that once a user has purchased the ticket, the controlling authority is contacted and an indication of a unique identifier is transmitted to the controlling authority, wherein this process may be done electronically (col. 5, line 64 - col. 6, line 4). The examiner views this as meeting the claim limitation of the wagering card having activation information configured to electronically activate the wagering card, wherein this process is a prerequisite to playing one or more entries in the lottery. Nulph further teaches another type of player-activated lottery feature wherein the player has the advantage of purchasing a ticket at one time and then activate the ticket at a later time. The examiner views this as meeting the claim limitation of the wagering information being configured to facilitate playing one or more wagering entries at a time other than the time of purchase of the wagering card. Nulph further teaches in fig. 4, that the wagering is configured to display activation information, (fig. 4, part 412), wherein Nulph further discloses that initially all play spots are covered, wherein the removable covering of a covered play spot has printed thereon a symbol that identifies a play spot, wherein the uncovered play spot would show the lottery number that the user desires to play using the wagering card (col. 6, lines 19 - 28), which is viewed by the

examiner as the wagering entries being pre-printed on the wagering card and concealed prior to purchase of the wagering card, but Nulph is silent on the issue of the wagering entries not being selected by the player. In a related art, however, Pollock provides a lottery-type game of chance that employs a ticket, wherein each ticket includes a unique pattern of numbers which differs from others in a set of the tickets, wherein the numbers are covered, prior to play, with a removable cover member, wherein the game is played by employing a random number generator, (abstract), wherein Pollock further discloses in fig. 3a, an event wherein the cover member is removed to display the concealed numerals which constitutes the playing numbers of the game, (col. 4, lines 20 - 26), wherein it is further taught by Pollock that the playing numbers are pre-selected by the random number generator (col. 2, lines 40 - 46), which is viewed by the examiner as the wagering entries not being selected by the player. Pollock further discloses that the matrix shown in fig. 3a, is arranged like a tic-tac-toe matrix, wherein the nine numbers employed in the game are chosen from the numerals 1 - 75, such that for example, any of the numbers 1 - 25 can be located in the first, or left hand column, any of the numbers 26 - 50 can be located in the second column, and numbers 51 - 75 can be located in the third column, wherein Pollock further teaches that the number ranges can be varied as desired (col. 4, lines 30 - 38). The Examiner views this as meeting the limitation of randomly selected subset of numbers of a predetermined range of numbers, wherein the randomly selected subset of numbers includes less than a full range of numbers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Pollock into the art disclosed by

Nulph in order to provide a new and improved seal card game which employs randomly drawn numbers in its play, wherein the winners are not known until a random number generator has chosen a plurality of numbers which are reflected in a predetermined pattern located in a window of a concealed section of the wagering card game.

Regarding claims 65, 66, 74, and 75, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein, as stated above, Nulph further teaches another type of player-activated lottery feature wherein the player has the advantage of purchasing a ticket at one time and then activate the ticket at a later time. The examiner views this as the player not having to select a wagering date when the wagering card is purchased.

Regarding claims 67 and 76, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein Nulph further discloses that the lottery ticket may have a redemption value, wherein in the event that the player wins a prize, the user redeems the ticket in order to receive the prize (col. 6, lines 5 - 11), wherein as shown figs. 4 - 7, the wagering card comprising a machine-readable bar code. The examiner views this as meeting the claim limitation of electronically redeeming the prepaid wagering card for prize if the wagering information identifies a winning entry.

Regarding claims 68 and 77, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein Nulph includes an aspect of authenticating a wagering

card, wherein a plurality of verification spots are printed on each of the plurality of tickets, (col. 2, lines 43 – 48), which is viewed by the examiner as the wagering card being configured to prevent a tampering issue wherein a user may attempt to redeem a wagering card for a prize before wagering has been activated.

Regarding claims 69 and 78, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein Nulph further discloses an embodiment that is configured to allow a user to play an interactive televised program that includes a ticket having game instructions printed thereon, wherein an example of this is shown in fig. 9, wherein the player is given a desired to participate in the game, wherein as shown in fig. 9, the desired date is shown on part 930, wherein the date instructions are further shown on part 912. This is viewed by the examiner as meeting the claim limitation of the wagering card displaying timing information representing a predetermined period of time for which the wagering card is valid.

Regarding claims 70 and 79, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein Nulph further discloses that the wagering card includes identification information (part 442 of fig. 4).

Regarding claim 71, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein Nulph further provides a prepaid wagering card that is capable of having the activation or redemption information in a machine – readable form that

includes at least a bar code or magnetic strip and is capable of being read by a reading device other a specific lottery terminal (col. 4, lines 3 – 6 and col. 6, lines 46 – 50).

Regarding claims 80 - 82, Nulph provides a lottery game system and method that discloses a plurality of play spots being printed on each lottery ticket of a plurality of lottery tickets, (abstract), wherein a record of the unique identifier and the values of play spots for each ticket are stored in a database (col. 2, lines 2 – 4).

Response to Arguments

3. Applicant's arguments filed on 5/5/10 have been fully considered but they are not persuasive. Regarding claims 63 and 72, Applicants argue that the cited references of Nulph and Pollock "does not disclose the claimed generation of a randomly selected subset of a predetermined range of numbers used in a lottery of interest, wherein the randomly selected subset of numbers includes less than a full range of numbers." The Examiner respectfully disagrees. As stated above, Pollock further discloses that the matrix shown in fig. 3a, is arranged like a tic-tac-toe matrix, wherein the nine numbers employed in the game are chosen from the numerals 1 - 75, such that for example, any of the numbers 1 - 25 can be located in the first, or left hand column, any of the numbers 26 - 50 can be located in the second column, and numbers 51 - 75 can be located in the third column, wherein Pollock further teaches that the number ranges can be varied as desired (col. 4, lines 30 - 38). The Examiner views the numbers in the first, second, and third columns as randomly selected subset of numbers, furthermore, the Examiner views Pollock's teaching that these numbers are chosen from the numerals 1 - 75, wherein they are split up in three columns, as further stating that these numbers

are selected from a predetermined range of numbers that are less than a full range of numbers. Thus, the Examiner maintains that the cited art references render the present invention obvious.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

/E. M. T./
Examiner, Art Unit 3714